

MONTANA LEGISLATIVE HISTORY

Chapter 2 19 71 - 2nd Ex. Session

Bill H _____ S 1 Original bill & history ✓ c

H. Committee on Highways

Hearing Date(s) 6-9 ✓ c

6-11 ✓ c

6-15 ✓ c

6-16 ✓ c

Date Out _____ c

S. Committee on Highways

Hearing Date(s) 6-11 ✓ c

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Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

EXTRAORDINARY Session No 2

SENATE BILL NO. 1

INTRODUCED BY

Regan - Braden Stein
Manning Jackson Hordley McIlwain Moritz

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
CONTROL OF OUTDOOR ADVERTISING ADJACENT TO INTERSTATE AND
PRIMARY HIGHWAY SYSTEMS IN COMPLIANCE WITH THE HIGHWAY
BEAUTIFICATION ACT OF 1965; REPEALING SECTIONS 32-4701
THROUGH 32-4714, R.C.M. 1947"

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE
OF MONTANA:

Section 1. (a) The legislature finds and declares that
in order to promote the safety, convenience and enjoyment
of travel on, and protection of the public investment in
highways within this state, and to preserve and enhance
the natural scenic beauty or aesthetic features of the
highways and adjacent areas, it shall be the policy of
this state that the erection and maintenance of outdoor
advertising in areas adjacent to the right-of-way of the
interstate and primary systems within this state shall be
regulated in accordance with the terms of this act and
the rules and regulations promulgated by the commission,
pursuant thereto, and finds that all outdoor advertising
which does not conform to the requirements of the act
are public nuisances. It is the intention of the legis-
lature in this act to provide a statutory basis for
regulation of outdoor advertising consistent with the
public policy relating to areas adjacent to the interstate
and primary systems declared by congress in title 23,

INTRODUCED BILL

1 United States code, "highways".

2 (b) This act may be cited as the "Outdoor Advertising
3 Act".

4 Section 2. As used in this act: (a) "Interstate
5 system" means that portion of the national system of
6 interstate and defense highways located within this state,
7 as officially designated, or as may hereafter be so des-
8 ignated by the commission and approved by the secretary
9 pursuant to the provisions of title 23, United States
10 code, "highway".

11 (b) "Primary system" means that portion of connected
12 main highways, as officially designated or as may here-
13 after be so designated by the commission and approved
14 by the secretary pursuant to the provisions of title
15 23, United States code, "highways".

16 (c) "Outdoor advertising" means any outdoor sign,
17 display, light, device, figure, painting, drawing, message,
18 plaque, poster, billboard, or other structure which is
19 designed, intended or used to advertise or inform and
20 which is visible from any place on the main traveled way
21 of the interstate or primary systems.

22 (d) "Commission" means the state highway commission
23 of Montana.

24 (e) "Secretary" means the secretary of the United
25 States department of transportation.

26 (f) "Safety rest area" means an area or site estab-
27 lished and maintained within or adjacent to the right
28 of way by or under public supervision or control, for
29 the convenience of the traveling public.

30 (g) "Information center" means an area or site

1 established or maintained at safety rest areas for the
2 purpose of informing the public of places of interest
3 within the state and providing such other information as
4 the commission may consider desirable.

5 (h) "Visible" means capable of being seen, whether
6 or not legible, without visual aid by a person of normal
7 visual acuity.

8 (i) "Commercial or industrial zone" means an area
9 which is used or reserved for business, commerce, or
10 trade pursuant to comprehensive local zoning ordinances
11 or regulations, or enabling state legislation, including
12 highway service areas lawfully zoned as highway service
13 zones where the primary use of the land is used or reserved
14 for commercial and roadside services, other than outdoor
15 advertising, to serve the traveling public.

16 (j) "Unzoned commercial or industrial area" means an
17 area not zoned by state or local law, regulation or
18 ordinance which is occupied by one or more industrial or
19 commercial activities, other than outdoor advertising, on
20 the lands along the highway for a distance of six hundred
21 (600) feet immediately adjacent to the activities, and
22 those lands directly opposite on the other side of the
23 highway to the extent of the same dimensions; provided,
24 those lands on the opposite side of the highway are not
25 deemed scenic or having aesthetic value as determined
26 by the commission.

27 (k) "Commercial or industrial activities" means for
28 purposes of subsection (j) those activities generally
29 recognized as commercial or industrial by zoning author-
30 ities in this state, except that none of the following

activities shall be considered commercial or industrial:

(i) Agricultural, forestry, grazing, farming and related activities including wayside fresh produce stands.

(ii) Transient or temporary activities.

(iii) Activities not visible from the main traveled way.

(iv) Activities conducted in a building principally used as a residence.

(v) Railroad tracks and minor sidings.

(vi) Activities more than six hundred and sixty (660) feet from the nearest edge of the right-of-way.

(l) "Maintain" means to allow to exist, subject to the provisions of this act.

(m) "Maintenance" means to repair, refurbish, repaint or otherwise keep an existing sign structure in a state suitable for use.

(n) "Interchange" or "intersection" means those areas and their approach where traffic is channeled off or onto an interstate route including the de-acceleration lanes or acceleration lanes from or to another federal, state, county, city, or other route.

Section 3. (a) No outdoor advertising shall be erected or maintained which is within six hundred and sixty (660) feet of the nearest edge of the right-of-way and which is visible from any place on the main traveled way, of an interstate or primary system, except:

(i) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, as authorized or required by

1 law.

2 (ii) Signs, displays and devices advertising the sale
3 or lease of property upon which they are located.

4 (iii) Signs, displays and devices advertising activi-
5 ties conducted on the property upon which they are located.

6 (iv) Signs, displays and devices located in areas
7 which are zoned industrial or commercial by a bona fide
8 state, county or local zoning authority.

9 (v) Signs, displays and devices located in unzoned
10 commercial or industrial areas, which areas shall be
11 determined from actual land uses and by agreement between
12 the commission and the secretary and defined by regulations
13 promulgated by the commission. The exception granted by
14 this subsection shall not apply to signs, displays and
15 devices located within an unzoned area in which the com-
16 mercial or industrial activity used in defining the area
17 has ceased for a period of six (6) months.

18 (b) Outdoor advertising authorized under subsections
19 (i), (iv), and (v) of subsection (a) of this section shall
20 conform with standards contained in, and shall bear per-
21 mits required in, regulations which are promulgated by
22 the commission and this act.

23 Section 4. The commission is hereby authorized to
24 make and promulgate regulations to control the erection
25 and maintenance of outdoor advertising along the interstate
26 and primary highway systems in conformance with the terms
27 of this act and in conformity with section 131 of title
28 23, United States code, as amended.

29 Section 5. Signs permitted under Section 3 (a) (i),
30 (ii), (iii), (iv), and (v) shall conform to the following

1 requirements:

2 (a) Maximum area -- 1200 square feet

3 (b) Maximum length -- 60 feet

4 (c) Maximum height -- 25 feet

5 (d) No more than two facings visible and readable

6 from the same direction on the main traveled way may be

7 erected on any one sign structure. Whenever two facings

8 are so positioned, neither shall exceed 325 square feet.

9 (e) Double-faced, back-to-back and V-type signs shall

10 be considered as a single sign or structure.

11 (f) No two signs shall be spaced less than five hun-

12 dred (500) feet apart adjacent to an interstate highway,

13 or limited access primary highway except that signs may

14 be erected closer than five hundred (500) feet if they are

15 separated by buildings or other obstructions in such a

16 manner that only one sign facing located within the above

17 spacing distance is visible from the highway at any one

18 time.

19 (g) Signs may not be located within five hundred (500)

20 feet of any of the following which are adjacent to the

21 highway; unless such signs are in an incorporated area:

22 (i) Public parks.

23 (ii) Public forests.

24 (iii) Public playgrounds.

25 (iv) Scenic areas designated as such by the state

26 highway department or other state agency having and exer-

27 cising such authority.

28 (v) cemeteries.

29 (h) No sign may be located on an interstate highway

30 or freeway within five hundred (500) feet of an inter-

1 change, or intersection at grade, or rest area. Said five
2 hundred (500) feet is to be measured along the interstate
3 or freeway from the beginning or ending of the pavement
4 widening at the exit from or entrance to the main traveled
5 way.

6 (i) The location of sign structures situated on the
7 primary highways between streets, roads or highways
8 entering or intersecting the main traveled way shall con-
9 form to the following minimum spacing criteria:

10 (i) Where the distance between centerlines of inter-
11 secting streets or highways is less than one thousand
12 (1,000) feet, a minimum spacing between structures of
13 one hundred fifty (150) feet may be permitted between
14 the intersecting streets or highways.

15 (ii) Where the distance between centerlines of inter-
16 secting streets or highways is one thousand (1,000) feet
17 or more, minimum spacing between sign structures shall be
18 three hundred (300) feet.

19 Section 6. Within ninety (90) days after the effec-
20 tive date of this act, no signs authorized by subsections
21 (i), (iv), and (v) of subsection (a) of section 3 may be
22 constructed or maintained without a permit. Applications
23 for permits shall be made to the commission on forms
24 furnished by it. The commission shall require reasonable
25 information to be furnished, including a statement that
26 the owner or occupant of the land has consented to the
27 erection or maintenance of the sign or signs thereon.
28 A permit must be obtained for each sign and the appli-
29 cation for the permit must be accompanied by an initial
30 fee of ten dollars (\$10).

1 Permits shall be issued for three (3) years, assigned
2 a permit number, and renewed every three (3) years there-
3 after upon payment of five dollars (\$5) without the filing
4 of a new application. All fees received shall be paid
5 into the state highway account in the earmarked revenue
6 fund.

7 The commission shall issue with each new permit a
8 permanent identification tag not larger than six (6)
9 square inches which shall be affixed to the sign in a
10 position readily visible from the highway.

11 Notwithstanding the foregoing provisions of this
12 section, the commission shall issue permits and identi-
13 fication tags, upon application and payment of the
14 requisite fee for any structure lawfully in existence
15 on the day prior to the effective date of this act,
16 and the permits shall thereafter be renewed for such
17 period of time as is prescribed herein, unless the
18 structure is removed for improper maintenance.

19 Section 7. When the commission determines that a
20 false or misleading statement has been made in the
21 application for a permit or that the structure for which
22 a permit was issued is not in a reasonable state of repair,
23 is unsafe or is otherwise in violation of this act, the
24 commission shall notify the holder of the permit in
25 writing, either by certified mail or by personal service,
26 of the violation and specify that remedial action shall
27 be taken within sixty (60) days or the permit will be
28 revoked and action for removal of the sign commenced as
29 provided in section 8 of this act. No notice is required
30 prior to filing a complaint after the notice period has

lapsed.

1 Section 8. (1) The following outdoor advertising is
2 deemed unlawful:

3 (a) When erected after the effective date of this act
4 contrary to the provisions of this act; or

5 (b) When a permit is not obtained as prescribed in
6 this act; or

7 (c) When a permittee fails to comply with a notice of
8 violation as provided in section 7 of this act.

9 (2) The commission shall give notice in writing,
10 either by certified mail or by personal service, to the
11 owner or occupant of the land on which unlawful advertising
12 is located and the owner of the outdoor advertising struc-
13 ture, if the latter is known, or if unknown, by posting
14 notice in a conspicuous place on said structure, of its
15 intention to remove the advertising deemed unlawful.
16 Within fifteen (15) days after the notice, the owner of
17 the land or of the structure may make written request for
18 a hearing before the commission to show cause why the
19 structure should not be removed. The commission shall
20 keep a full and complete record of such hearing, make and
21 enter its findings, conclusions and decisions in the matter
22 and mail copies thereof by certified mail to the party or
23 parties requesting the hearing.

24 The decision of the commission may be appealed to
25 the district court in the county in which the structure is
26 located. The court shall sustain the decision of the
27 commission if it is supported by substantial evidence as
28 shown by the records and exhibits. If there is no appeal
29 from the commission's decision or if the commission's
30 decision is affirmed, the party or parties requesting

1 the appeal shall be liable for all costs incurred by the
2 commission. Appeals shall be taken within thirty (30)
3 days of the commission's decision by filing a notice and
4 sending a copy of the notice to the commission by certified
5 mail.

6 The commission shall forward its records and exhibits
7 to the district court having jurisdiction within thirty
8 (30) days after receiving notice of such appeal. Appellant
9 shall pay all costs of transcript and records.

10 If a hearing before the commission is not requested,
11 or if there is no appeal taken from the commission's deci-
12 sion at such hearing, or if the commission's decision is
13 affirmed on appeal, the commission shall immediately remove
14 the unlawful outdoor advertising. The owner of the struc-
15 ture and the owner or occupant of the land shall be jointly
16 and severally liable for the costs of such removal. The
17 commission shall incur no liability for causing this
18 removal.

19 Section 9. (a) The commission is hereby empowered and
20 authorized to acquire by gift, purchase, agreement, ex-
21 change or eminent domain, any existing outdoor advertising
22 and all property rights pertaining to same which were
23 lawfully in existence on the effective date of this act,
24 and which by reason of this act become non-conforming.
25 Eminent domain shall be exercised in accordance with the
26 provisions of the laws of the state of Montana.

27 (b) Just compensation shall be paid for outdoor adver-
28 tising and all property rights pertaining to the same
29 acquired through the process of eminent domain. The com-
30 mission is empowered to remove outdoor advertising found

1 in violation of sections 7 or 8 of this act without pay-
2 ment of compensation.

3 (c) Despite any contrary provision in this act, no
4 sign shall be required to be removed without just compen-
5 sation, unless found to be in violation of sections 7 or
6 8 of this act. Except as provided in said sections 7 and
7 8 no sign shall be required to be removed unless at the
8 time of removal or discontinuance there are sufficient
9 funds, from whatever source, appropriated and immediately
10 available to pay the just compensation required under this
11 section, and unless at such time the federal funds required
12 to be contributed under section 131 (g) of title 23, United
13 States code, with respect to the outdoor advertising being
14 removed, have been apportioned and are immediately avail-
15 able to this state.

16 Section 10. The highway commission of the state of
17 Montana is authorized to enter into an agreement with the
18 secretary regarding the size, lighting and spacing of out-
19 door advertising which may be erected and maintained within
20 the areas adjacent to the interstate and primary highway
21 system which are zoned commercial, industrial, or in such
22 other unzoned commercial or industrial areas as may be
23 determined by agreement.

24 Section 11. Nothing in this act shall be construed
25 to abrogate or affect the provisions of any lawful ordi-
26 nance, regulation or resolution, which is more restrictive
27 than the provisions of this act.

28 Section 12. In the event the general requirements
29 of title 23, United States code, "highways", or existing
30 rules and regulations of the United States department of

1 transportation become amended or changed to less restric-
2 tive conditions than presently exist, then, the commission
3 is empowered to amend or change such rules and regulations
4 that it may have adopted to come into conformity with
5 the federal law, rule and regulation; however, in no event
6 shall this act become more restrictive than is indicated
7 herein by said federal action.

8 Section 13. Outdoor advertising contracted for prior
9 to the enactment of this act and which under the provisions
10 of the act becomes non-conforming shall not be regulated
11 as such until January 1, 1972.

12 Section 14. If any provision of this act, or the
13 application of any provision to any person or circumstance,
14 is held invalid, the remainder of this act shall not be
15 affected thereby.

16 Section 15. Any person violating any provision of
17 this act is guilty of a misdemeanor.

18 Section 16. All outdoor advertising which does not
19 conform to the requirements of this act are public
20 nuisances.

21 Section 17. Sections 32-4702 through Section 32-4714,
22 R.C.M. 1947, are hereby repealed.

23 Section 18. This act is effective on passage and
24 approval.
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☒ DO PASS AS AMENDED

☐ DO NOT PASS

☐ BE CONCURRED IN

☐ BE NOT CONCURRED IN

☐ BE ADOPTED

☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

June 21 1971

MR. PRESIDENT:

We, your committee on HIGHWAYS AND TRANSPORTATION

EXTRAORDINARY SESSION NO. II

SENATE

having had under consideration Bill No. 1

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE CONTROL OF OUTDOOR ADVERTISING ADJACENT TO INTERSTATE AND PRIMARY HIGHWAY SYSTEMS IN COMPLIANCE WITH THE HIGHWAY BEAUTIFICATION ACT OF 1965; REPEALING SECTIONS 32-4701 THROUGH 32-4714, R.C.M. 1947"

SENATE

Respectfully report as follows: That Bill No. 1

Amend Section 17, page 12 of the original bill following the word "Sections" by omitting the following figures "32-4702" and inserting in lieu thereof the following figures "32-4701"

AND AS AMENDED DO PASS

DO PASS

June 9, 1971

The House Highways Committee was called to order by Chairman Wolf. All members were present including two new members appointed to the committee.

The meeting was call to consider a proposed bill to limit billboards and such signs. The same bill had been considered by the Senate yesterday. After the bill is formally introduced there will be a joint hearing of the House and Senate.


Mr. Harry Alley, Montana Highway Department, testified on the proposed bill. The matter has been precipitated by a letter sent to the Governor, stating that the present highway act is not acceptable to the Federal government. The zoning of nearly all the state makes it available for commercial signs. If no action is taken the state will loose 10% of its Federal money. The legislation has been sent to Washington, D.C. for comment. The proposed bill before the Committee has incorporated their suggestions and the bill is now acceptable to the Federal government. He presented material to back up his position. It has been requested by the Senate members that copies of the agreement of some of the western states and the Federal government be obtained by the Highway Department for study. Any litigation would with hold millions of dollars and there is no surity of winning such litigation.

Mr. H.T. Buswell, Montana Highway Commission, testified on the proposed legislation. He illustrated on a map the areas of the State that can now be legally signed and it is not controlled. The cost of removing the signs would be over five million dollars, based on restrictive estimate. The actual cost will be more. The rough break down of removing nearly half of the signs will be \$340 per sign. However, there are many small signs that will cost little if nothing to remove. According to the bill the State would have five years to complete this project. No sign can be removed without compensation at the time of its removal. This is one reason that the State has been so slow in compliance with the Federal law. If the act passes no sign can be erected unless permitted.

Mr. Eric Myhre testified on the proposed bill. There are two kinds of signs; those that are maintained and those that are erected and left come what may. The sign industry has been in conflict with the government for several years. The state laws have been enacted to effect the needed changes but not but they are not enforced. The lack of signs can greatly handicap the tourist travel with in the state. If there is any litigation it could be to remedy the law. The six hundred feet is not enough lead in time to influence the tourist.

There was a discussion between the witnesses and members.

There being no further business, the meeting adjourned.

 Chairman
Kenneth M. Wolf

June 11, 1971

A joint meeting of the House and Senate Highway Committees was held in Room 410 with a quorum from each house present.

PROPOSERS

Mr. Harry Alley re-stated the purpose of this bill (Extraordinary Session 11 Senate Bill No. 1). It is fashioned after the Wyoming act, with 14 suggested changes included.

Mr. Buswell emphasized that unless we pass this law, we are going to be penalized. If we don't comply with the law, we lose our highway appropriations which could amount to over \$20 million in the next 4-5 years.

OPPOSERS

Mr. Eric Myhre used Florida as an example. He stated that they have no such law. He also stated that no state that received Mr. Volpe's letter has responded legislatively. Some states have compliance laws, but they won't sign any agreement. A Committee to study this problem has been formed. 8 members have already been appointed and the other 3 will be announced shortly to go into deeper study of the Beautification Law. Mr. Myhre stated that: 1. This law will hurt the tourist business. 2. It is telling the cities where they can put signs. 3. Federal government recognizes outdoor advertising as a legitimate business.

Mr. Charley Mahoney wants to stand up for the little people. He feels this bill will not affect the big corporations, but the little people and will put many of them out of business.

Senator Graham asked that if we are not in compliance or have a law into effect at that time (in September when the allotment is made) will the money be gone? Mr. Buswell affirmed this and added that the money would be held in a special fund until court proceedings are completed.

Senator Reardon asked Mr. Sternhagen if Montana would have to pay for the appeal should there be one. Mr. Sternhagen stated that the outdoor advertising industry was willing to come up with \$600,000 to help the state of Montana to bring the appeal. The appeal would be before the district court. Reardon - It could take 3-4 years? Sternhagen - No. Reardon - Could we lose \$7,000,000? Sternhagen - only if we lost. The attorney general could cut off the appeal at any time. Reardon - are you asking us to gamble with such a large sum in appropriations? Sternhagen - We are not asking you to gamble, only to get it to the district court.

Highway minutes
June 11, 1971
page 2

Representative Lien wants to know the entire cost of removing the signs, including the loss of rental to landowners and loss of revenue to business, etc.. Mr. Buswell said that the 1966 estimates took these costs into consideration.

Mr. Alley stated that there are now 28 states in compliance with the law and 11 states with acceptable legislation before the legislature at the present time. Florida was cited this morning and is subject to the 10% penalty.

Representative Lien asked if there isn't a permit system now in use or can a sign be put up and would they be paid for the sign for 20 years, or do we have a cut off date. Mr. Alley said that the Montana law was only enacted for a period of two years. Only two years ago was a law to this effect made permanent.

Senator Stein spoke up in favor of this bill stating that he believed that we would lose much money if we don't pass this bill.

Senator Reardon moved and Senator graham seconded the amendment on page 12, section 17 of the original bill following the word "Sections" to omit the following figures "32-4702" and insert in lieu thereof the following figures "32-4701. Motion carried.

Senator Reardon moved and Senator Northey seconded that
EXTRAORDINARY SESSION NO. II SENATE BILL NO 1 DO PASS AS
AMENDED. Motion carried.

DAVE WANNING, CHAIRMAN

June 15, 1971

The Highways Committee was called to order by Chairman Wolf. Thirteen members were present and two were absent.

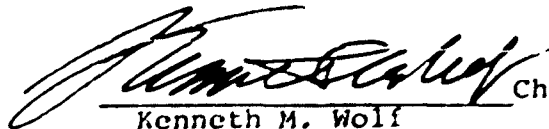
The meeting was called to consider amendments to Extraordinary Session II Senate Bill 1. This bill concerns the regulation of bill boards.

Mr. Lockrem read several amendments to the bill and moved for adoption of them. The amendments were then voted on separately.

Mr. Lockrem moved that the bulk of the amendments be submitted to a sub-committee for further study. The motion passed.

The Chairman appointed Mr. Dye, Mr. Laas and Mr Wolf to the committee.

There being no further business, the meeting was adjourned.

 Chairman
Kenneth M. Wolf

June 16, 1971

The Highways Committee was called to order by Chairman Wolf. There were twelve members present and three absent.

The Committee considered EX S II Senate Bill 1, and its amendments. The amendments were then read and discussed by the Committee.

Mr. Lien moved that the proposed amendments be adopted. These were the ones that had met with the approval of the Highway Department Legal division. The motion passed.

Mr. Swanberg moved that the bill then be sent from the committee a "to pass as amended" recommendation. The motion carried.

EX S II House Bill 22 was then assigned to a sub-committee for further study. The Chairman appointed Mr. Selsted, chairman, Mr. Lockren and Mr. Lien.

There being no further business, the meeting was adjourned.

Kenneth M. Wolf Chairman

CHAPTER NO. 2

An Act to Provide for the Control of Outdoor Advertising Adjacent to Interstate and Primary Highway Systems in Compliance with the Highway Beautification Act of 1965; Repealing Sections 32-4701 Through 32-4714, R.C.M. 1947, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Policy clause.

Section 1. (a) The legislature finds and declares that in order to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways within this state, and to preserve and enhance the natural scenic beauty or aesthetic features of the highways and adjacent areas, it shall be the policy of this state that the erection and maintenance of outdoor advertising in areas adjacent to the right-of-way of the interstate and primary systems within this state shall be regulated in accordance with the terms of this act and the rules and regulations

Intent of legislature.

promulgated by the commission, pursuant thereto. It is the intention of the legislature in this act to provide a statutory basis for regulation of outdoor advertising consistent with the public policy relating to areas adjacent to the interstate and primary systems declared by congress in title 23, United States code, "highways."

"Outdoor advertising act."

(b) This act may be cited as the "Outdoor Advertising Act."

"Interstate system."

Section 2. As used in this act: (a) "Interstate system" means that portion of the national system of interstate and defense highways located within this state, as officially designated, or as may hereafter be so designated by the commission and approved by the secretary pursuant to the provisions of title 23, United States code, "highways."

"Primary system."

(b) "Primary system" means that portion of connected main highways, as officially designated or as may hereafter be so designated by the commission and approved by the secretary pursuant to the provisions of title 23 United States code, "highways."

"Outdoor advertising."

(c) "Outdoor advertising" means any outdoor sign, display, light, device, figure, painting, drawing, mes-

sage, plaque, poster, billboard, or other structure which is designed, intended or used to advertise or inform and which is visible from any place on the main traveled way of the interstate or primary systems

(d) "Commission" means the state highway commission of Montana. "Commission."

(e) "Secretary" means the secretary of the United States department of transportation. "Secretary."

(f) "Safety rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control, for the convenience of the traveling public. "Safety rest area."

(g) "Information center" means an area or site established or maintained at safety rest areas for the purpose of informing the public of places of interest within the state and providing such other information as the commission may consider desirable. Information center."

(h) "Visible" means capable of being seen, and legible, without visual aid by a person of normal visual acuity. "Visible."

(i) "Commercial or industrial zone" means an area which is used or reserved for business, commerce, or trade pursuant to comprehensive local zoning ordinances or regulations, or enabling state legislation, or state legislation itself, including highway service areas lawfully zoned as highway service zones where the primary use of the land is used or reserved for commercial and roadside services, other than outdoor advertising, to serve the traveling public. "Commercial or industrial zone."

(j) "Unzoned commercial or industrial area" means an area not zoned by state or local law, regulation or ordinance which is occupied by one or more industrial or commercial activities, other than outdoor advertising, on the lands along the highway for a distance of six hundred (600) feet immediately adjacent to the activities, and those lands directly opposite on the other side of the highway to the extent of the same dimensions; provided, those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the commission. "Unzoned commercial or industrial area."

"Commercial or industrial activities."

(k) "Commercial or industrial activities" means for purposes of subsection (j) those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(i) Agricultural, forestry, grazing, farming and related activities including wayside fresh produce stands.

(ii) Transient or temporary activities.

(iii) Activities not visible from the main traveled way.

(iv) Activities conducted in a building principally used as a residence.

(v) Railroad tracks and minor sidings.

(vi) Activities more than six hundred and sixty (660) feet from the nearest edge of the right-of-way.

"Maintain."

(1) "Maintain" means to allow to exist, subject to the provisions of this act.

"Maintenance."

(m) "Maintenance" means to repair, refurbish, repaint or otherwise keep an existing sign structure in a state suitable for use.

"Interchange or intersection."

(n) "Interchange" or "intersection" means those areas and their approach where traffic is channeled off or onto an interstate route including the de-acceleration lanes or acceleration lanes from or to another federal, state, county, city, or other route.

Limitation of outdoor advertising—660 feet.

Section 3. (a) No outdoor advertising shall be erected or maintained which is within six hundred and sixty (660) feet of the nearest edge of the right-of-way and which is visible from any place on the main traveled way, of an interstate or primary system, except:

Exceptions.

(i) Directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, as authorized or required by law.

(ii) Signs, displays and devices advertising the sale or lease of property upon which they are located.

(iii) Signs, displays and devices advertising activities conducted on the property upon which they are located

(iv) Signs, displays and devices located in areas which are zoned industrial or commercial by a bona fide state, county or local zoning authority.

(v) Signs, displays and devices located in unzoned commercial or industrial areas, which areas shall be determined from actual land uses and by agreement between the commission and the secretary and defined by regulations promulgated by the commission. The exception granted by this subsection shall not apply to signs, displays and devices located within an unzoned area in which the commercial or industrial activity used in defining the area has ceased for a period of nine (9) months.

(b) Outdoor advertising authorized under subsections (i), (iv), and (v) of subsection (a) of this section shall conform with standards contained in, and shall bear permits required in, regulations which are promulgated by the commission and this act.

Section 4. The commission is hereby authorized to make and promulgate regulations to control the erection and maintenance of outdoor advertising along the interstate and primary highway systems in conformance with the terms of this act and in conformity with section 131 of title 23, United States code, as amended. Regulations.

Section 5. Signs permitted under Section 3 (a) (i), (ii), (iii), (iv), and (v) shall conform to the following requirements: Sign requirements.

(a) Signs shall not be erected or maintained which exceed 1,200 square feet in area including border and trim, but excluding base or apron, supports, and other structural members. Area.

(b) Maximum length—60 feet. Length.

(c) Maximum height—40 feet, as measured from the ground or, if the sign is attached to a structure, as measured from the base of the sign itself. Height.

(d) No more than two facings visible and readable from the same direction on the main traveled way may Facings.

be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed 325 square feet.

Multiple facing. (e) Double-faced, back-to-back and V-type signs shall be considered as a single sign or structure.

Spacing. (f) No two signs shall be spaced less than five hundred (500) feet apart adjacent to an interstate highway, or limited access primary highway except that signs may be erected closer than five hundred (500) feet if they are separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the highway at any one time.

Distance from facilities. (g) Signs may not be located within five hundred (500) feet of any of the following which are adjacent to the highway; unless such signs are in an incorporated area:

(i) Public parks.

(ii) Public forests.

(iii) Public playgrounds.

(iv) Scenic areas designated as such by the state highway department or other state agency having and exercising such authority.

(v) Cemeteries.

**Interstate—
interchange—
distance.**

(h) No sign may be located on an interstate highway or freeway within five hundred (500) feet of an interchange, or intersection at grade, or rest area. Said five hundred (500) feet is to be measured along the interstate or freeway from the beginning or ending of the pavement widening at the exit from or entrance to the main traveled way.

Illumination.

(i) Signs may be illuminated, subject to the following restrictions:

(i) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather or similar information.

(ii) Signs which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the interstate or federal-aid primary highway, or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.

(iii) No sign shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

(j) The location of sign structure situated on the primary highways between streets, roads or highways entering or intersecting the main traveled way shall conform to the following minimum spacing criteria:

Primary highway—
intersection—
spacing.

(i) Where the distance between centerlines of intersecting streets or highways is less than one thousand (1,000) feet, a minimum spacing between structures of one hundred fifty (150) feet may be permitted between the intersecting streets or highways.

(ii) Where the distance between centerlines of intersecting streets or highways is one thousand (1,000) feet or more, minimum spacing between sign structures shall be three hundred (300) feet.

Section 6. Within ninety (90) days after the effective date of this act, no signs authorized by subsections (i), (iv), and (v) of subsection (a) of section 3 may be constructed or maintained without a permit. Applications for permits shall be made to the commission on forms furnished by it. The commission shall require reasonable information to be furnished, including a statement that the owner or occupant of the land has consented to the erection or maintenance of the sign or signs thereon. A permit must be obtained for each sign and the application for the permit must be accompanied by an initial fee of six dollars (\$6).

Permits.

Fees.

Permits shall be issued for three (3) years, assigned a permit number, and renewed every three (3) years thereafter upon payment of three dollars (\$3) without the filing of a new application. All fees received shall be paid into the state highway account in the earmarked revenue fund.

Identification tags.

The commission shall issue with each new permit a permanent identification tag not larger than six (6) square inches which shall be affixed to the sign in a position readily visible from the highway.

Notwithstanding the foregoing provisions of this section, the commission shall issue permits and identifications tags, upon application and payment of the requisite fee for any structure lawfully in existence on the day prior to the effective date of this act, and the permits shall thereafter be renewed for such period of time as is prescribed herein, unless the structure is removed for improper maintenance.

**Violation—
remedial action.**

Section 7. When the commission determines that a willful false or misleading statement has been made in the application for a permit or that the structure for which a permit was issued is not in a reasonable state of repair, or is unsafe, the commission shall notify the holder of the permit in writing, either by certified mail or by personal service, of the violation and specify that remedial action shall be taken within sixty (60) days or the permit will be revoked and action for removal of the sign commenced as provided in section 8 of this act. No notice is required prior to filing a complaint after the notice period has lapsed.

**Unlawful
advertising.**

Section 8. (a) The following outdoor advertising is deemed unlawful:

(i) When erected after the effective date of this act contrary to the provisions of this act; or

(ii) When a permit is not obtained as prescribed in this act; or

(iii) When a permittee fails to comply with a notice of violation as provided in section 7 of this act.

Notice.

(b) The commission shall give notice in writing, either by certified mail or by personal service, to the owner or occupant of the land on which advertising believed to be unlawful is located and the owner of the outdoor advertising structure, if the latter is known, or if unknown, by posting notice in a conspicuous place on said structure, of its intention to remove the advertising deemed unlawful. Within forty five (45) days after the notice, the owner of the land or of the structure

may make written request for a hearing before the commission to show cause why the structure should not be removed. The commission shall keep a full and complete transcript and record of such hearing, make and enter its findings, conclusions and decisions in the matter and mail copies thereof by certified mail to the party or parties requesting the hearing.

The decision of the commission may be appealed to the district court in the county in which the structure is located. The court shall sustain the decision of the commission if it is supported by substantial evidence as shown by the records and exhibits. If there is no appeal from the commission's decision or if the commission's decision is affirmed, the party or parties requesting the appeal shall be liable for all costs incurred by the commission. Appeals shall be taken within thirty (30) days of the commission's decision by filing a notice and sending a copy of the notice to the commission by certified mail. Appeal procedure.

The commission shall forward its transcripts, records and exhibits to the district court having jurisdiction within thirty (30) days after receiving notice of such appeal. Appellant shall pay all costs of transcript and records.

If a hearing before the commission is not requested, or if there is no appeal taken from the commission's decision at such hearing, or if the commission's decision is affirmed on appeal, the commission shall immediately remove the unlawful outdoor advertising. The owner of the structure and the owner or occupant of the land shall be jointly and severally liable for the costs of such removal. The commission shall incur no liability for causing this removal, except for damage caused by negligence of the commission, its agents or employees.

Section 9. (a) The commission is hereby empowered and authorized to acquire by gift, purchase, agreement, exchange or eminent domain, any existing outdoor advertising and all property rights pertaining to same which were lawfully in existence on the effective date of this act, and which by reason of this act become non-conforming. Eminent domain shall be exercised in accordance with the provisions of the laws of the state of Montana. Acquisition of outdoor advertising.

Compensation.

(b) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same acquired through the process of eminent domain. The commission is empowered to remove outdoor advertising found in violation of section 7 or 8 of this act without payment of compensation.

(c) Despite any contrary provision in this act, no sign shall be required to be removed without just compensation, unless found to be in violation of section 7 or 8 of this act. Except as provided in said sections 7 and 8 no sign shall be required to be removed unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section, and unless at such time the federal funds required to be contributed under section 131 (g) of title 23, United States code, with respect to the outdoor advertising being removed, have been apportioned and are immediately available to this state.

Agreement regarding outdoor advertising.

Section 10. The highway commission of the state of Montana is authorized to enter into an agreement with the secretary regarding the size, lighting and spacing of outdoor advertising, as provided in this act, which may be erected and maintained within the areas adjacent to the interstate and primary highway system which are zoned commercial, industrial, or in such other unzoned commercial or industrial areas as may be determined by agreement, and as provided in this act.

Affect on ordinance.

Section 11. Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution, which is more restrictive than the provisions of this act.

Change in United States code.

Section 12. In the event the general requirements of title 23, United States code, "highways," or existing rules and regulations of the United States department of transportation become amended or changed to less restrictive conditions than presently exist, then, the commission must amend or change such rules and regulations that it may have adopted to come into conformity with the federal law, rule and regulation; however, in no event shall this act become more restrictive than is indicated herein by said federal action.

Section 13. Outdoor advertising contracted for prior to the enactment of this act and which under the provisions of the act becomes non-conforming shall not be regulated as such until January 1, 1972. **Contracts prior to act.**

Section 14. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby. **Saving clause.**

Section 15. Any person violating any provision of this act is guilty of a misdemeanor. **Penalty.**

Section 16. All outdoor advertising which does not conform to the requirements of this act are public nuisances. **Public nuisance.**

Section 17. Sections 32-4701 through Section 32-4714, R.C.M. 1947, are hereby repealed. **Repealing clause.**

Section 18. This act is effective on passage and approval. **Effective date.**

Approved June 24, 1971.

CHAPTER NO. 3.

An Act to Provide for Relocation Assistance to Persons Displaced as a Result of Acquisition of Land for Federally Assisted Programs and to Provide for Acquisition Practices.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms as a result of federally assisted programs, to establish uniform and equitable land acquisition policies for federally assisted programs and to comply with the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970." **Purpose clause.**

Section 2. As used in this act, unless the context otherwise requires:

(1) "Agency" means the state of Montana, a political "Agency."